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09/834,528	04/12/2001	Frano Luburic	ROPAK-P2712	4027

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NEWPORT BEACH, CA 92660

EXAMINER

NGO, LIEN M

ART UNIT PAPER NUMBER

3727

DATE MAILED: 09/12/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No. 09/834,528		Applicant(s) LUBURIC, FRANO	
Examiner LIEN TM NGO		Art Unit 3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 20 June 2002.
- 2a) ☒ This action is FINAL.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

2. Claims 1, 6 and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 9, "said lower portion" is indefinite whether it defines to the lower portion of the outer skirt or the lower portion of the inner skirt.

In claim 6, line 7, "said structure" lacks antecedent basis.

In claim 14, line 3, "said tapering" lack antecedent basis.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Ruch (3,753,511) Ruch discloses, in figs.3-5, an apparatus for providing a liquid-tight seal comprising a container 1 having an upper edge, and a lid having a receiving channel 22 at its periphery, said channel

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including an outer skirt 14 having a lower portion 13 spaced outwardly from said container upper edge, and an inner skirt 11 having a lower portion 10 spaced inwardly from said container upper edge, a removable tear strip 13, and corresponding tongue and groove members 3, 19 which are sloped.

5. Claims 1, 4, and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by May (5,456,375). May discloses, in figs. 5 and 6, an apparatus for providing a liquid-tight seal comprising a container 10 having an upper edge constituting in cross section a generally vertical wedge member 13 which is tapered, and a lid having a receiving channel at its periphery, said channel including an outer skirt 28 having a lower portion 20 spaced outwardly from said container upper edge, and an inner skirt 53 having a lower portion spaced inwardly from said container upper edge, a removable tear strip 50, and corresponding tongue and groove members 31, 16 on said lid and said container to inter fit with each other within the channel, said tongue member having a cross sectional axis that is sloped.

6. Claims 2-6 and 14-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Crisci (4,209,107). Crisci discloses, in figs. 2-4, an apparatus comprising a container 12 having an upper edge constituting in cross section a generally vertical wedge member 26 which is tapered, and a lid 50 having a correspondingly-shaped wedge receiving channel 32 at its periphery, said channel including an outer skirt 44 having a lower portion 48 spaced outwardly from said container upper edge, and an inner skirt 14 having a lower portion spaced inwardly from said

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container upper edge, and corresponding tongue and groove members 42, 30 on said lid and said container to inter fit with each other within the channel, said tongue member having a cross sectional axis that is sloped.

7. Claims 2-5 and 14-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Widen et al. (4,444,332). Widen et al. disclose, in figs. 1 and 2, an apparatus comprising a container 2 having an upper edge constituting in cross section a generally vertical wedge member 10 which is tapered, and a lid 50 having a correspondingly-shaped wedge receiving channel 28 at its periphery, said channel including an outer skirt 32 having a lower portion 42 spaced outwardly from said container upper edge, and an inner skirt, and detent members 40, 26.

8. Claims 2-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Wilkinson (3,556,338). Wilkinson discloses, in figs. 1-4 an apparatus comprising a container 12 having an upper edge constituting in cross section a generally vertical wedge member 8 which is tapered, and a lid 50 having a receiving channel 32 at its periphery including a corresponding tapered section 17 said channel including an outer skirt 44 having a lower section, and an inner skirt 14, and detent members or corresponding tongue and groove members 21, 13. In regard to claims 6-8, the upper edge including a horizontal surface 31 having a groove member 27 and said lid including a horizontal surface having a tongue member 38, said tongue member being slightly larger than said groove member (col. 3, lines 52-53). In regard to claims 9-13, said tongue member being misaligned horizontally to said groove member (see fig. 4), since said tongue

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comprising a V-shape, its cross-section being sloped outwardly on the V left side and sloped inwardly on the right side.

### *Response to Arguments*

9. Applicant's arguments with respect to claims 1-17 have been considered but are moot in view of the new ground(s) of rejection.

In response to applicant's argument that Wilkinson does not disclose a lid having a corresponding-shaped wedge receiving channel. However, that is not found convincing because, claims 2-17 does not require that limitation in the claims.

In response to applicant's argument that Wilkinson does not disclose "tongue and groove members providing said structure to abut and form a liquid-tight seal with said upper edge of said container" (claim 6). Examiner does not agree with that because in fig. 4, Wilkinson discloses a tongue 38 provide on the lid and a groove 27 provided on the container, which abut and form a liquid-tight seal with said upper of said container by projection V-shaped ridge 38 is slightly wider at its upper end than the upper opening of the groove 27.

In response to applicant's argument's that Wilkinson does not disclose a lid "having a tapered channel at its periphery, ..... said tapering providing contacting and sealing engagement between said lid and the container on both an inner contact surface and an outer contact surface of said channel"(claim 14). However, that is not persuasive, because Wilkinson discloses, in figs. 2 and 3, a lid having tapered channel at it periphery and said tapered channel providing contacting

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and sealing engagement between said lid and the container on both an inner contact surface and an outer contact surface of said channel.

In response to applicant's argument's that Wilkinson does not disclose a lid having a generally U-shaped cross section, "both legs of said cross section configured to abut a corresponding container to thereby form a liquid-tight seal". Examiner submits that Wilkinson, in figs. 2 and 3, teach a lid having a generally U-shaped section as claimed.

#### *Conclusion*

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

a shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lien Ngo whose telephone number is (703) 305-0294. The examiner can normally be reached Monday through Friday from 8:00 AM to 5:00 PM.


If attempts to reach the examiner by telephone are unsuccessful. The examiner's supervisor, Lee Young, can be reached at (703)308-2572. The Group FAX number is (703) 305-3579.

Any inquiry of a general nature or relating to the status of the application should be directed to the Group receptionist at (703) 308-1148.



Lien Ngo

September 3, 2002

  
**Stephen P. Garde**  
**Primary Examiner**